

**STATE OF LOUISIANA
DEPARTMENT OF CIVIL SERVICE
BATON ROUGE, LA.**

January 14, 2004

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**STATE PERSONNEL MANUAL
TRANSMITTAL SHEET
NO. 404**

To: HEADS OF STATE AGENCIES AND PERSONNEL OFFICERS

Subject: Correction to Transmittal No. 403

Issue Date: January 14, 2004

Pages 21.2 and 21.4 are being reissued to reflect changes adopted at the Commission meeting but which were inadvertently omitted in Transmittal No. 403. At the October 8th, 2003 Commission meeting, Rule 21.6(c) was added and Rule 21.14 was eliminated in its entirety from the proposed Rules.

Please make the following changes in your Civil Service Rules:

<u>REMOVE</u>		<u>INSERT</u>	
<u>Page</u>	<u>T/S</u>	<u>Page</u>	<u>T/S</u>
21.1	403	21.1	403
21.2	403	21.2	404
21.3	403	21.3	403
21.4	403	21.4	404
21.5	403		

Sincerely,

s/Allen H. Reynolds
Director

Chapter 21

Overtime and Overtime Compensation

21.1 Authority To Require Performance Of Overtime.

An employee in the classified service may be required by his appointing authority to work overtime.

21.2 Determination of exempt / non-exempt status of positions

Agencies shall determine the exempt or non-exempt status of all positions, in accordance with the Fair Labor Standards Act (FLSA).

21.3 Authority for compensation.

- (a) All non-exempt employees shall be compensated for overtime in accordance with the FLSA for overtime conditions that are covered by the FLSA, and shall be compensated in accordance with Civil Service rules for State Overtime, which is defined in Rule 21.7.
- (b) All exempt employees shall be compensated in accordance with Civil Service rules for State Overtime, which is defined in Rule 21.7.

21.4 Methods of compensation for overtime.

- (a) Overtime compensation may be granted in the form of cash payment or compensatory leave earned; cash shall be paid when required under the FLSA or by these rules.
- (b) Employees who are employed on an intermittent schedule shall not earn compensatory leave, but shall be paid cash.

21.5 Basis for the calculation of hourly rate of pay for overtime.

- (a) The hourly rate of pay for State Overtime earned at the hour-for-hour rate shall be calculated using the employee's base pay plus base supplement.
- (b) The hourly rate of pay for State Overtime earned at the time and one-half rate may be calculated in accordance with the FLSA or in accordance with subsection (a) of this rule.
- (c) The hourly rate of pay for all FLSA overtime shall be calculated in accordance with the FLSA.

21.6 Compensatory Leave – Crediting and Usage.

- (a) Compensatory leave credited to an employee may be used by the employee, with the approval of the appointing authority.
- (b) An employee who has been credited with compensatory leave may be required, by the appointing authority, to take all or part of such leave at any time.
- (c) An agency may pay the balance of an employee's compensatory time at any time. The rate of pay shall be calculated in accordance with Rule 21.5. Payment is required under circumstances defined in Rule 21.10, 21.11 and 21.12.

21.7 Definition of State Overtime

When an employee is not eligible for overtime under the provisions of the FLSA, State Overtime shall be granted as follows:

- (a) For purposes of calculating hours worked for STATE OVERTIME, a day off from work due to paid leave taken or a holiday observed is considered to be a day worked.
- (b) STATE OVERTIME is work performed by an employee at the direction of the appointing authority or his designee:
 - 1. In excess of the employee's regularly scheduled workday.
 - 2. In excess of the employee's regularly scheduled work period.
 - 3. On a holiday, including designated holidays
 - 4. During official closures

21.8 Compensation Rate – Non-Exempt Employees.

- (a) All FLSA overtime shall be compensated at the time and one-half rate.
- (b) State Overtime shall be compensated at the straight (hour for hour) rate, unless an exception has been granted by the Commission, or unless the time and one-half rate is allowed under subsection (c) and (d) of this rule.
- (c) State Overtime performed during official closures due to emergency situations may be compensated at the time and one-half rate.
- (d) State Overtime performed on a holiday may be compensated at the time and one-half rate.

21.9 Compensation Rate – Exempt Employees.

The appointing authority shall compensate exempt employees in accordance with one of the following options:

- (a) No overtime compensation
- (b) Compensation at the straight (hour for hour) rate
- (c) Overtime performed during official closures due to emergency situations may be compensated at the time and one-half rate.
- (d) Compensation at the time and one-half rate may be granted to exempt employees upon Commission approval.

21.10 Caps and Required Payment for Overtime Earned at the Time and One-half Rate

- (a) Employees who accrue compensatory leave at the time and one-half rate shall accumulate no more of such compensatory leave than allowed under the Fair Labor Standards Act.
- (b) Once the maximum balance of compensatory leave earned at the time and one-half rate is reached, any additional overtime work in excess of the employee's established FLSA work period must be paid to a non-exempt employee in cash at the time and one-half rate.

21.11 Caps, Required Payment, and Cancellation of Overtime Earned at the Hour-for-Hour Rate

- (a) Compensatory leave earned hour for hour may be accrued in excess of 360 hours, but not more than a total of 360 such hours shall be carried forward from one calendar year to the next. However, an appointing authority may request an exception to this subsection to maintain essential services necessary to preserve the life, health, or welfare of the public. This exception may ask that up to a total of 540 such hours be carried forward to the next calendar year. Such a request is subject to approval by the Commission.
- (b) For non-exempt employees whose hour-for-hour compensatory leave balance exceeds the cap required or granted by exception under subsection (a) of this rule, payment shall be made within 90 days after January 1 of each year for the excess compensatory leave. If payment is made, the employee's hourly rate of pay shall be calculated in accordance with Rule 21.5(a).

- (c) For exempt employees whose hour-for-hour compensatory leave balance exceeds the cap required or granted by exception under subsection (a) of this rule, payment may be made within 90 days after January 1 of each year for the excess compensatory leave. If payment is made, the employee's hourly rate of pay shall be calculated in accordance with Rule 21.5(a). Any excess leave not paid, shall be cancelled.

21.12 Payment or Cancellation of Compensatory Leave upon Separation or Transfer.

(a) Time and One-half Compensatory Leave

Upon separation or transfer from a department, all compensatory leave earned at the time and one-half rate and credited to an employee shall be paid according to the method of calculation of hourly rate contained in the Fair Labor Standards Act, including those payments made under this rule to exempt employees.

(b) Hour-for-Hour Compensatory Leave

1. All unused compensatory leave earned hour for hour by exempt employees may be paid upon separation or transfer from the department in which he earned it at the final regular rate received by the employee, calculated in accordance with 21.5(a).
2. All unused compensatory leave earned hour for hour by exempt employees, if not paid to the employee upon separation or transfer, shall be cancelled upon separation or transfer from the department in which he earned it. Such leave shall not be recredited to him upon his reemployment in that or any other department.
3. Upon separation or transfer, unused compensatory leave earned hour for hour by non-exempt employees shall be paid in accordance with the following schedule, at the final regular rate received by the employee, calculated in accordance with 21.5(a). All additional such unused leave may be paid or cancelled and shall not be recredited to him upon his reemployment in that or any other department.

360 hours must be paid after January 1, 2003

450 hours must be paid after January 1, 2004

All hours must be paid after January 1, 2005

21.13 Exceptions to the Overtime Rules.

The Commission may grant exceptions to these rules.